

REMARKS/ARGUMENTS

The Applicant has carefully considered this application in connection with the Examiner's Action and respectfully requests reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicant originally submitted Claims 1-33 in the application. Previously in a election restriction, the Applicants elected Claims 19-33 and canceled Claims 1-18 without prejudice or disclaimer. Presently, the Applicant has not amended, canceled or added any claims. Accordingly, Claims 19-33 are currently pending in the application.

I. Rejection of Claims 19-33 under 35 U.S.C. §103

The Examiner has rejected Claims 19-33 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,437,376 to Ozkan ("Ozkan") in view of U.S. Patent No. 3,725,161 to Kuper ("Kuper"). Independent Claims 19 and 31, in one form or another, include the element of a germanium-enriched region proximate an upper surface of the base and within the silicon-germanium layer. The Examiner concedes that Ozkan "does not disclose a germanium-enriched region proximate an upper surface of the base and within the silicon-germanium layer." (*See*, page 3 of Examiner's Action dated October 17, 2008). However, the Examiner asserts that Kuper discloses a germanium-enriched region proximate an upper surface of the base and within the silicon-germanium layer, and that it would be obvious to include this layer of Kuper within the structure of Ozkan.

The Applicant disagrees with the Examiner on a number of different fronts. First, Kuper, as applied by the Examiner, does not disclose that the germanium-enriched region is proximate an upper surface of the base. Specifically, the Examiner points the Applicant to Column 1, lines 15-20, of Kuper for this disclosure. Nevertheless, the term base does not appear where the Examiner asserts. Moreover, having only briefly reviewed the entirety of Kuper, the Applicant is of the opinion that the term base (akin to a base in a bipolar transistor, as opposed to a base layer) cannot be found throughout the entire document.

Second, there is no motivation within either Ozkan or Kuper to combine the alleged germanium-enriched region of Kuper within the structure of Ozkan. A teaching or suggestion of a germanium-enriched region, assuming even Kuper stands for this proposition, is very different from placing that germanium-enriched region within a base of a bipolar transistor, which is not taught or suggested in either reference. Moreover, neither Ozkan nor Kuper recognizes the benefits associated with using the germanium-enriched region proximate an upper surface of the base, and without such, it would not be obvious to alter the lengthy and specific manufacturing process of Ozkan to include the supposed germanium-enriched region of Kuper. Additionally, the Kuper reference has been around for many years, and if there really were a motivation therein to include its alleged germanium-enriched region within a bipolar transistor such as that of Ozkan, it is likely that it would already exist. Nonetheless, no motivation currently exists in either of the references, and thus the Examiner's combination of Ozkan and Kuper is based upon nothing more than impermissible hindsight.

Therefore, Ozkan, individually or in combination with Kuper (if it is even proper to combine these two references), fails to teach or suggest the invention recited in independent Claims 19 and 31 and their dependent claims, when considered as a whole. Accordingly, the combination fails to establish a prima facie case of obviousness with regard to these claims. Claims 19-33 are therefore not obvious in view of the combination.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 19-33 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner withdraw the rejection.

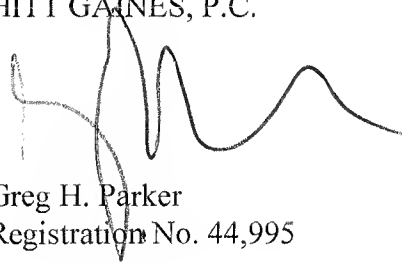
II. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 19-33.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, P.C.

A handwritten signature in black ink, appearing to read 'Greg H. Parker', with a stylized, wavy line extending from the end.

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